

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
EASTERN DIVISION**

UNITED STATES OF AMERICA,)	CASE NUMBER: 1:22-cr-00489-JRA-1
)	
Plaintiff,)	JUDGE JOHN R. ADAMS
)	
v.)	
)	<u>DEFENDANT'S SENTENCING</u>
JESSE VARNER,)	<u>MEMORANDUM</u>
)	
Defendant.)	

Now comes the Defendant, Jesse Varner, by and through the undersigned counsel, and hereby submits the attached Sentencing Memorandum, incorporated by reference herein. Defendant requests a sentence at the low end of his guideline range as calculated in the final Pre-Sentence Investigation Report (PSIR). The reasons and legal support are set forth in the attached memorandum.

Respectfully submitted,

/s/ Michael J. Goldberg
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CERTIFICATE OF SERVICE

I hereby certify that on January 26, 2023, a true and correct copy of the foregoing was filed electronically. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system.

/s/ Michael J. Goldberg
Michael J. Goldberg (0040839)

MEMORANDUM

I. Statement of the Case

On August 3, 2022, Defendant, Jesse Varner was arrested in connection with a complaint for Felon in Possession of a Firearm and Ammunition. On August 25, 2022, an indictment was filed charging him with Felon in Possession of a Firearm and Ammunition in violation of 18 U.S.C. § 922(g)(1). On October 19, 2022, Mr. Varner entered a plea of guilty to the sole count of the indictment. This Court accepted his guilty plea and ordered the preparation of a PSIR. Sentencing is currently set in this matter for February 2, 2023.

II. Law and Argument

a. PSIR Guideline Calculations

Base Offense Level: 14

U.S.S.G. § 2K2.1(a)(6)

Acceptance of Responsibility -2

U.S.S.G. § 3E1.1

Final Offense Level: 12

Criminal History: III

U.S.S.G. § 5A

Guideline Range: 15-21 Months

U.S.S.G. § 5A

a. Sentencing Considerations

18 U.S.C. § 3553(a) sets forth factors that district courts must consider at sentencing:

1. The nature and circumstances of the offense and the history and characteristics of the Defendant;
2. The need for the sentence imposed (A) to reflect the seriousness of the offense, to promote respect for the law; and to provide just punishment for the offense; (B) to afford adequate deterrence to criminal conduct; (C) to protect the public from future crimes of the Defendant; and (D) to provide the Defendant with needed

education or vocational training; medical care or other correctional treatment in the most effective manner;

3. The kinds of sentences available;
4. The advisory guideline range;
5. Any pertinent policy statements issued by the Sentencing Commission;
6. The need to avoid unwarranted sentence disparities;
7. The need to provide restitution to any victims of the offense.

In this case, these factors are mitigating and support imposition of a low-end sentence.

i. Defendant's History and Characteristics

Mr. Varner was born on April 1, 1998 in Cleveland, Ohio. His father was never present in his life, and he was raised by his mother and grandmother. Mr. Varner had a difficult childhood. He has been homeless for the much of his life. He often went without food during his childhood, or had to go through the garbage to find food to eat. He also suffered physical, emotional, and sexual abuse during his childhood. He still has great difficulty talking about these traumatic events. In school, Mr. Varner was in special education classes and had an IEP for behavior issues and a learning disability. He withdrew from high school.

Mr. Varner was also exposed to controlled substances from a young age, as men his mother dated would use substances in their home. He himself first consumed alcohol at the age of nine, and marijuana at age thirteen. He reports being addicted to both marijuana and K2. He has attended drug treatment twice in the past, but has been unable to stop using drugs. Mr. Varner's prior criminal conduct occurred at a very young age. Mr. Varner's lack of guidance and support has contributed to his poor decision making and thus an early criminal career.

ii. Defendant's Conduct in This Case

Mr. Varner's conduct in this case consisted of selling a firearm and ammunition to a confidential informant while being a convicted felon. He has accepted responsibility for this conduct in a written statement provided to the PSIR writer. In his statement, he expressed the desire to stay away from guns for the rest of his life. An attempted sale of a firearm subsequent to his conduct in this case resulted in an indictment for robbery in violation of 18 U.S.C. § 2112, pending before Judge Brennan in case # 1:22-CR-00643. Mr. Varner has come to recognize the devastating effect that gun violence has had on the community. Despite his rough exterior, Mr. Varner does feel true remorse for his actions.

III. Conclusion

For the foregoing reasons, Mr. Varner asks this Court to impose a sentence at the low-end of the guideline range set forth in the PSIR.

Respectfully submitted,

/s/ Michael J. Goldberg
Michael J. Goldberg (0040839)
Attorney for Defendant